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Finding of No Significant Impact

Imperial Solar Energy Center South

U.S. Department of the Interior
Bureau of Land Management
El Centro Field Office
1661 South 4th Street
El Centro, CA 93342

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INTRODUCTION

This Finding of No Significant Impact (FONSI) addresses the issuance of right-of-way (ROW) grants under Title V of the Federal Land Policy and Management Act (FLPMA), 43 United States Code (USC) Section 1761, for a proposed transmission line and improvements to an existing access road across public lands under the jurisdiction of the Bureau of Land Management (BLM), El Centro Field Office, as explained below. The transmission line and access road improvements on public lands are related to the development of solar energy generation facility on private lands. Authorizations for ROW grants are regulated by BLM in accordance with 43 Code of Federal Regulations (CFR) Section 2800 *et seq.*, consistent with Department of the Interior (DOI) and BLM policies and the California Desert Conservation Area Plan (CDCA Plan) (1980, as amended).

This FONSI also considers the environmental impacts of the entire energy generation project (see below), including the non-Federal action components located on private lands, because the non-Federal Actions are connected to the requested right-of-way (ROW) grants for the transmission line and access road improvements. The BLM NEPA Handbook provides that if the connected non-Federal action and its effects can be prevented by BLM decision-making, then the effects of the non-Federal action are properly considered indirect effects of the BLM action and must be analyzed as indirect effects of the BLM action (40 CFR 1508.7. 40 C.F.R. 1508.25(c); BLM NEPA Handbook [January 2008] at pp. 46-48.) As explained below, the non-Federal actions are connected to BLM ROW decision because they cannot or will not proceed unless BLM grants the requested ROWs.

PROJECT DESCRIPTION

CSolar Development, LLC (CSOLAR) has proposed to construct the Imperial Solar Energy Center (ISEC) South project (Proposed Project or ISEC South Project) primarily on privately-owned lands in Imperial County, CA. The ISEC South Project consists of three primary components:

- (1) A 200 megawatt (MW) photovoltaic (PV) solar energy generating facility (generating facility) on 946.6 acres of privately-owned, undeveloped and flood-

irrigated agricultural lands in the unincorporated Mt. Signal area of the County of Imperial, approximately eight miles west of the City of Calexico and 5 miles south the existing Imperial Valley Substation. The Plan of Development and the EIR/EA considered both PV and concentrated photovoltaic (CPV) for the generating facility; that has since been changed and the project is now proposed for PV only.

- (2) A 230 kilovolt (kv) electrical transmission interconnection (gen-tie) line running generally north from the proposed generating facility to the Imperial Valley Substation.
- (3) Improvements to an existing dirt road for site access, 1.2 acres of which traverse BLM-administered lands.

Since ISEC South Project's electrical transmission interconnection line corridor and a portion of the access road improvements are located on BLM lands, they require a ROW grant from the BLM prior to their construction. As a result, CSOLAR submitted two applications for ROW grants on BLM managed lands, using "Standard Form 299 Application for Transportation and Utility Systems and Facilities on Federal Lands," to the BLM; one for the proposed transmission line corridor on October 29, 2009, and one for the proposed access road improvements on October 26, 2010. In connection with that request and due to the public/private land configuration of the overall ISEC South Project, a joint Environmental Impact Report (EIR)/Environmental Assessment (EA) was prepared to meet the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), respectively, for the proposed project. The County of Imperial is the lead agency for CEQA purposes, and the BLM is the lead agency for NEPA purposes.

This FONSI determination is for the proposed 120-foot-wide ROW for the construction and operation of the electrical transmission interconnection line, use of temporary construction sites, the use of the existing dirt road on BLM lands, the improved access road, and ancillary facilities as described below and in Chapter 2 of the EIR/EA. As noted above, this FONSI considers the environmental impacts of these components, as well as the impacts of the generating facility, segments of the access road, and their ancillary facilities located on private lands (collectively the "non-Federal actions") because the non-Federal Actions cannot proceed unless BLM grants the ROWs for the transmission line and those access road improvements located on public lands. However, once the power from the Proposed Project reaches the Imperial Valley Substation, it can be distributed to the grid via either the existing Southwest Powerlink transmission line or the planned but not yet constructed Sunrise Powerlink transmission line. Because the project is not dependent on the Sunrise Powerlink transmission line, the proposed Sunrise Powerlink line was not identified as a connected action for purposes of the EIR/EA.

With respect to the ISEC South Project's transmission interconnection line, ISEC's had originally proposed to construct a 230-kv transmission line within Utility Corridor "N" of the CDCA Plan. The proposed transmission line would require a 120-foot-wide ROW corridor extending from the north side of the existing Imperial Valley Substation south approximately five miles and then east to the Project's solar energy facility site. This line, as proposed, consisted of three components: an 8,500 foot East-West Connector line (crossing 5,420 feet of BLM land) connecting the solar facility to a proposed north-south transmission line; a north-south transmission line that would stretch four miles to the south side of the Imperial Valley Substation and require 20 new steel lattice support structures; and a 3,000 foot interconnection line that would cross existing transmission lines using steel A-frame structures and enter the Imperial Valley Substation on the 230-kv north side (See EIR/EA Section 2.1.4 for a detailed description).

With the addition of temporary construction areas and the use of spur roads within the BLM lands, the total ROW area on BLM-administered lands requested by CSOLAR for these transmission line components and the access road improvements described in the EIR/EA was 96.6 acres. The impact of these components and the overall project were analyzed in EIR/EA under the Proposed Action.

As noted in Section 2.1.4.1B of the EIR/EA, CSOLAR and the BLM identified a potential alternative configuration of the transmission interconnection line that would follow approximately the same route as described above for the Proposed Action, but instead of constructing new towers and support structures for Components 2 and 3 above, would co-locate the ISEC South Project's transmission line on San Diego Gas and Electric's (SDG&E's) Imperial Valley to La Rosita 230 kV gen-tie line. After issuance of the final EIR/EA, CSOLAR obtained consent for shared use of SDG&E's La Rosita gen-tie line, and as a result will co-locate a significant portion of its proposed transmission line on those existing facilities rather than constructing the new facilities described above. This shared transmission line configuration, along with the realigned access road to the shared transmission line and the private land solar facility, is referred to in this FONSI as the "Refined Project." The Refined Project modifies the transmission line originally proposed by CSOLAR as follows:

- CSOLAR would still construct the 8,500 foot East-West Connector line identified above.
- Instead of constructing 20 new support towers to carry the north-south transmission line and the towers necessary to travel around the east side of the Imperial Valley Substation, CSOLAR would co-locate its North-South Connector onto the existing SDG&E's La Rosita line that already runs within Utility Corridor "N". This co-location configuration would utilize space on the eastern-arm in an existing double circuit on the SDG&E towers. The line will be added using new conductors starting at Tower #26 of the SDG&E line, which is where the East-West Connector from the ISEC South generating facility intersects the

SDG&E line. At the Imperial Valley Substation, the ISEC South Project's Line would travel around the substation to the north side alongside the 230 kV SDG&E lines, where they would connect to the 230-kV bays on the north side of the substation. The addition of the extra line to the existing SDG&E towers was already contemplated by the existing ROW grants for the La Rosita line, and therefore no additional approvals or ROW amendments are required for the co-location of the ISEC South Project's interconnection line. Furthermore, pursuant to an agreement with SDG&E for the use of the open circuit on their SDG&E-La Rosita transmission line infrastructure, SDG&E will assume ownership of the transmission line once located on their existing towers. As noted above, the co-location option eliminates the need to construct 20 new support towers, which means fewer ancillary facilities, such as spur roads, will be required for the ISEC South Project's interconnection line.

The total ROW grant approval from the BLM for the Refined Project is 19.2 acres. The Imperial Solar Energy Center South EIR/EA is incorporated by reference into this FONSI. The EIR/EA analyzed the Proposed Project and three alternatives (Alternative 1-Alternative Transmission Line Corridor, Alternative 2-Reduced Solar Energy Facility Site, and Alternative 3-No Action/No Project Alternative).

While the Refined Project was not identified as a separate alternative, it was identified as an alternative configuration of the Proposed Action (see EIR/EA Section 2.1.4.1B) and therefore is within the range of alternatives analyzed in the EIR/EA. Moreover, the impact associated with hanging the electrical transmission interconnection lines north-south from the east-west connector line to the Imperial Valley Substation was a feature of the proposed transmission line (see discussion above) that was analyzed within the EIR/EA. Under the Refined Project, such hanging will occur but without the need to construct 20 new towers as it will occur on existing lines. Thus, the Refined Project is within the scope of the Proposed Action and alternatives analyzed within the EIR/EA, as the Refined Project is merely a reduced in scope and impact version of the Proposed Action described above. Furthermore, the hanging of this additional line onto the existing SDG&E transmission line infrastructure is within the scope of the existing ROW grant for the La Rosita Transmission line.

FINDING OF NO SIGNIFICANT IMPACT DETERMINATION:

Based on a review of the EIR/EA and the supporting documents, I have determined that the Refined Project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Per NEPA regulations, 40 CFR 1508.27, whether a proposed action significantly affects the quality of the human environment is determined by considering the context and intensity of the action and its effects. No environmental effects associated with the ISEC South Project meet the definition of significance in context or intensity as defined in 40 Code of Federal Regulations (CFR) 1508.27 and the Refined

Project is in conformance with the following statutes and plans: FLMPA, CDCA Plan, Yuha Basin Area of Critical Environmental Concern (ACEC) Management Plan, Yuha Basin Flat-Tailed Horned Lizard (FTHL) Management Area (MA), and FTHL Range-wide Management Strategy (RMS). Therefore, an environmental impact statement (EIS) is not required. If the federal agency prepares an EA and determines that the proposed federal action does not have the potential to significantly affect the quality of the human environment, then NEPA allows the agency to prepare a FONSI rather than an EIS. My finding that the Refined Project will not significantly affect the quality of the human environment is based on the context and intensity of the project as described below.

Context

NEPA requires the consideration of the significance of an action in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend on the effects in the locale rather than in the world as a whole. Both short and long term effects are relevant 40 C.F.R. 1508.27(a). Here, the context of the Refined Project points to no significant unmitigated environmental impact considering the following:

1. The Refined Project is proposed to be sited on land already disturbed by past activities including agriculture and existing transmission lines, towers, and the substation, and will not result in substantial amounts of new areas of disturbance.
2. The Refined Project is a site-specific action directly involving approximately 19.2 acres of BLM-administered lands that have local and regional importance. The context of the EIR/EA analysis was determined to be at local and regional scales focused on Imperial County, California. The effects of the action are not applicable on a statewide or national scale because no statewide or nationally significant values were implicated.

Intensity

The term “intensity” refers to the severity of a proposed action’s impact on the environment. In determining an impact’s intensity, the NEPA regulations direct federal agencies to consider the following ten factors, each of which is discussed below in relation to the Refined Project.

- 1) Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects.*

While consideration of a project's intensity must include analysis of both beneficial and adverse effects, only a significant adverse effect triggers the need to prepare an EIS (40

CFR 1508.27(b)(1); and the BLM NEPA Handbook (January 2008 at Section 7.3). The potential beneficial effects and adverse impacts of the Refined Project are discussed briefly in the following sections, and the adverse impacts are discussed in more detail in Attachment A.

Beneficial Effects: As described in the EIR/EA, the Refined Project would contribute a renewable source of energy to California's energy mix and has the potential to contribute to stabilizing electricity prices, creating new employment opportunities, reducing reliance on imported fuels, and improving air quality by eliminating emissions of criteria pollutants that would have otherwise originated from fossil-based electricity production.

Adverse Effects: The construction and operation of the proposed electrical transmission interconnection line, temporary construction areas and access road within BLM lands would impact resources as described in detail in the EIR/EA. The impacts of the Refined Project (including all components on BLM and private lands) will either be the same or less than the impacts of the Proposed Action as described in detail in the EIR/EA. These potential impacts include a short term increase in traffic, temporary dust and particulate matter emissions, indirect impacts to two culturally sensitive areas, and impacts to sensitive species habitat. Traffic and air quality impacts would be temporary in nature, and air emissions would be reduced through mitigation measures. Impacts to cultural resources have been reduced through the co-location of transmission lines on existing facilities, and a Memorandum of Agreement (MOA) has been executed in order to comply with requirements for resolving any adverse effects of this project to historic properties under Section 106 of the National Historic Preservation Act (NHPA). Mitigation measures would minimize impacts to sensitive species habitat, and the BLM has determined through consultation with the US Fish and Wildlife Service (USFWS) that adverse impacts to federally listed species are not likely. The discussion of the environmental consequences of the Refined Project in the EIR/EA supports the conclusion that the Refined Project will not have a significant effect on the quality of the human environment. To the extent adverse effects were identified, the EIR/EA identifies/imposes mitigation measures that minimize those effects to less than significant levels under NEPA. Attachment A, Detailed Discussion of the Adverse Effects of the Refined Project, discusses those impacts and mitigation measures in more detail.

2) *The degree to which the selected alternative will affect public health or safety.*

Section 4.10, Health, Safety and Hazardous Materials/Fire and Fuels Management, and the Executive Summary (at ES-29) in the EIR/EA fully analyzed and disclosed potential health, safety, and hazardous materials impacts and determined that there are no significant impacts under the Refined Project related to these issues after mitigation. During construction of the transmission line and access road, construction equipment and vehicles are expected to generate some dust or particulate matter. Implementation of the mitigation measures provided in Section 4.4, Air Quality, in the EIR/EA will minimize those impacts related to air quality. Similarly, the EIR/EA concludes that the Refined Project will not result in a substantial increase in hazardous or solid wastes. Finally,

implementation of the mitigation measures provided in Section 4.10 would minimize the Refined Project's impacts related to the trash, debris and herbicides present on the site from the prior uses of the site.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.*

According to the BLM NEPA Handbook (January 2008, Section 7.3), "unique characteristics" are generally limited to those previously identified through a legislative, regulatory, or planning process.

The proposed electrical transmission line corridor and access road components of the Refined Project are within BLM lands and are located entirely within the Yuha Basin Area of Critical Environmental Concern (ACEC) and the Yuha Basin Flat-Tailed Horned Lizard Management Area (FTHL MA). As discussed in the EIR/EA, the Refined Project's potential impacts to biological resources conform to the CDCA Plan and the intent of the ACEC Management Plan with regard to sensitive resources and cultural resources. As discussed in the EIR/EA, the design of the Refined Project is also consistent with the FTHL RMS. The transmission gen-tie is within Utility Corridor "N" in the Yuha Basin ACEC. Utility Corridor "N" was created to allow utility transmission lines to pass through the ACEC to access the regional energy hub at the Imperial Valley Substation, thereby avoiding siting transmission lines in other more sensitive areas on BLM land. Moreover, the Refined Project would not result in an aggregate area of disturbance within the Imperial Valley that exceeds the FTHL RMS' 1% threshold.

The Refined Project would avoid the direct impact to one previously recorded cultural resource (IMP-3999) and would only indirectly impact two culturally sensitive areas (areas that have the potential to contain cultural resources) instead of the nine that would be impacted under the Proposed Project. Moreover, the mitigation measures provided in the EIR/EA would further reduce impacts to cultural resources under the Refined Project.

With respect to the generating site (which is outside the BLM lands), that site includes areas mapped as prime farmland and farmland of statewide importance, as defined by 7 CFR Section 657.5. However, the baseline use of the property has been for relatively low-value alfalfa production for decades. For these reasons, the Refined Project will not impact prime farmlands that are currently in active production. Although construction of the Refined Project will prevent the immediate use of the site for agricultural production, the lease for the private lands for the Refined Project will require CSOLAR to restore the generating facility site to its agricultural use condition at the conclusion of the project operations and decommissioning, which could potentially result in returning the land to agricultural production.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

No anticipated effects have been identified that are scientifically controversial. As a factor for determining within the meaning of 40 C.F.R. § 1508.27(b)(4) whether or not to prepare a detailed environmental impact statement, “controversy” is not equated with “the existence of opposition to a use.” *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). “The term ‘highly controversial’ refers to instances in which ‘a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.’” *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998). Comment letters on the EIR/EA provided no expert scientific evidence supporting claims that the project will have significant effects.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

Because there is always some uncertainty and risk regarding the effects of land management actions, the decision-maker must exercise some judgment in evaluating the degree to which the effects are likely to be highly uncertain and risks are unique or unknown (BLM NEPA Handbook, Section 7.3). The BLM has previously authorized three 230 kv lines in this area and was able to use information gathered from those prior projects to estimate the potential impacts of the Refined Project. As a result, the BLM can properly exercise its judgment and determine that it is unlikely that this project will have unique or unknown risks. The construction and operation of transmission lines and access roads is not unique or unusual. The effects of the construction and operation of transmission lines and access roads are well understood because the BLM has experience implementing similar actions in similar areas. For example, there are three existing transmission lines in Utility Corridor “N” and there are access roads adjacent to and around those transmission facilities. As such, there are no predicted effects of the Refined Project on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

Decision makers must consider the degree to which the action may establish a precedent for future reasonably foreseeable actions with significant effects or represents a decision in principle about a future reasonably foreseeable condition (BLM NEPA Handbook, Section 7.3). After thorough analysis, the Draft EIR/EA and Final EIR/EA properly determined that the Refined Project would result in no significant unmitigated effects. This conclusion is based on the specific facts of this project and does not set precedent

for, or automatically apply to future solar projects and ROWs that the BLM is reviewing. This is not the first industrial-sized solar project the BLM has approved and it is not the first transmission line ROW that the BLM has approved. Therefore, the type of land use action the BLM proposes to approve for the Refined Project does not establish precedents for future actions or represent a decision in principle about a future action.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts—which include connected actions regardless of land ownership.*

The EIR/EA considered various types of past, present, and reasonably foreseeable projects on both public and private land within the geographic area of the Refined Project. Sixty-three proposed projects were considered for inclusion in the cumulative impact analysis Chapter 5.0, Cumulative Impacts, in the EIR/EA provides an introduction and table of the projects considered and the parameters/rationale for inclusion or excluding that project in the cumulative impact analysis. By way of example, the parameters used to evaluate individual projects for inclusion as “reasonably foreseeable” in the biological resources analysis were: (1) projects in the Yuha Basin FTHL MA, (2) projects where the BLM has accepted a Plan of Development and determined it to be complete with sufficient details to analyze the potential impacts of the project; (3) private property projects in Imperial County that have submitted a Plan of Development; and (4) where information for such projects was available by the release of the Notice of Preparation of environmental analysis documentation.

Authorization of new ROW grants and ongoing improvements that serve public utility transmission systems has been analyzed in the BLM CDCA Plan and subsequent plan amendments. These analyses have resulted in the designation of utility corridors and communication sites, mechanisms for consideration of new facilities as the need arises, and subsequent programmatic agreements for ongoing operations and maintenance activities. No significant site specific or cumulative impacts associated with the BLM action or the non-federal connected action have been identified that could not be avoided through mitigation, or that are inconsistent with those identified and analyzed within the above plans and programs.

The following are incorporated by reference in this FONSI: (1) the existing analysis on which the BLM based its decision to amend its land use plan by adopting the FTHL RMS; (2) substantial evidence regarding cumulative impacts from construction and operation of renewable energy projects as identified in the Solar Draft PEIS, which assumes a level of renewable energy development (both on and outside BLM land) consistent with each state's (Arizona, California, Colorado, New Mexico, Nevada, and Utah) renewable energy portfolio; and (3) relevant cumulative impact information from projects identified during the comment phase of the Draft EIR/EA.

- 8) *The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

This is a sub-factor of the “unique characteristics of the geographic area” factor, and significance arises with the “loss or destruction” of significant scientific, cultural, or historical resources (BLM NEPA Handbook, Section 7.3). The EIR/EA fully analyzed and disclosed potential cultural resources impacts of the Refined Project and determined that the Refined Project would not result in any significant unmitigated impacts related to cultural resources (Final EIR/EA ES-20 to 26 and Section 4.7; Response to Manzanita Band of Kumeyaay Nation Tribe comment letter on Final EIR/EA dated May 25, 2011). The Refined Project, without mitigation, will impact fewer cultural resource sites than the Proposed Project, and as a result, after the implementation of the mitigation measures provided in Section 4.7, Cultural Resources, in the EIR/EA, the Refined Project would not have any significant unmitigated impacts on cultural resource sites.

Moreover, pursuant to Section 106 of the NHPA and its implementing regulations, and as discussed in Section 4.7 in the EIR/EA, the BLM consulted with the State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (ACHP), federally recognized Tribes (Tribes), and other interested parties regarding the impacts of the Refined Project on historic and cultural resources. Pursuant to Section 106 of NHPA, determinations of significant impacts and/or mitigation measures to historic properties cannot be made without consultation, and the Decision Record must include either an executed MOA or Programmatic Agreement if any significant impacts are identified. The consultations for the Refined Project led to the development and execution of a MOA that identified potential adverse effects to historic properties within the project area and set forth mitigation measures to eliminate, reduce or avoid such effects, including provisions related to the unanticipated discovery of potential impacted cultural resources. The execution of the MOA concludes the Section 106 consultation process and fulfills the requirements of the NHPA related to the Refined Project.

On May 25, 2011, the Manzanita Band of Kumeyaay Indians sent a public comment letter on the Final EIR/EA to the BLM requesting that BLM require the project to use one of the three existing transmission lines for connection to the Imperial Valley Substation rather than a new transmission line facility, because there is sufficient capacity in place on those towers as they currently stand. By approving a co-location arrangement (like the Refined Project), the Tribe indicated that a viable renewable energy project could be constructed that minimized the potential disturbance of the Kumeyaay cultural sites, avoided desecration of sacred cremation and burial sites, and avoided detracting of the view shed.

- 9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed or endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.*

As explained in Section 4.12, Biological Resources, in the EIR/EA, the construction and operation of the transmission line and access road on BLM land may result in potential impacts to FTHL, nesting raptors, and migratory birds. However, these potential impacts to threatened or endangered plant and wildlife species habitat under the Refined Project are fully mitigated by measures provided in Section 4.12, which are designed to avoid, minimize, and mitigate these impacts

Specifically, the area in which the transmission line would be constructed is in the Yuha Basin ACEC and in the Yuha Basin MA for the FTHL, a sensitive species. There is FTHL habitat in the areas that would be affected by the proposed transmission line route. However, the FTHL RMS foresaw the impacts to the FTHL within the Imperial Valley Substation area and Utility Corridor "N" when it established a one percent planned disturbance threshold to accommodate multiple transmission lines and gen-ties in the broader area of the ISEC South Project. The Refined Project would not result in an exceedance of the one percent threshold, and therefore, the cumulative impacts of multiple transmission lines have already been considered and provided for in FTHL RMS. Furthermore, as explained in Section 4.12 in the EIR/EA, mitigation measures would be implemented under the Refined Project to minimize impacts to the species in accordance with the FTHL RMS (EIR/ES at ES-33 to ES-42). Similarly, there is burrowing owl habitat on the generating facility site (not on BLM land). Mitigation measures provided in Section 4.12 in the EIR/EA (EIR/EA at ES-27 to ES-30) applicable to the Refined Project would avoid, minimize, or mitigate the potential impact to burrowing owls.

The BLM has, consistent with Section 7 of the Endangered Species Act (ESA), engaged in consultation with the US Fish and Wildlife Service (USFWS). The USFWS issued a concurrence letter dated April 1, 2011 stating that the project "is not likely to adversely affect" the southwestern willow flycatcher. The USFWS notified the BLM that Section 7 consultations for the FTHL and the mountain plover were no longer required for the project on April 1, 2011, and June 9, 2011, respectively.

- 10) *Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.*

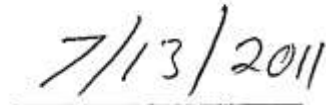
The Refined Project does not violate any known federal, state, local, or tribal law or requirement imposed for the protection of the environment. According to the BLM

NEPA Handbook (Section 7.3), this factor often overlaps with others, such as the “public health” factor. The project will not violate environmental laws as documented in the EIR/EA and in this FONSI. Refer to the discussion for Intensity Factors 1 (compliance with water, air, hazardous materials, and other environmental laws), 8 (NHPA Section 106 compliance), and 9 (compliance with endangered species laws), above. The Refined Project also does not violate the Farmland Protection Policy Act. Refer to the responses to the Backcounty Against Dumps letter dated May 26, 2011 (Comment 9), provided as Attachment B in the Decision Record. Finally, the project's conditional use permit with the County of Imperial special conditions G-1 and S-1 require the Permittee (Applicant) to comply with all local, state and/or federal laws, rules, regulations, ordinance, and/or standards.

Conclusion

Based on the findings discussed herein, I conclude that the Refined Project will result in no significant impacts to the quality of the human environment, individually or cumulatively with other actions in the general area under NEPA.


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Date